

MAY 21 2013



TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

IN RE ACTOS (PIOGLITAZONE)
PRODUCTS LIABILITY LITIGATION

This Document Applies to All Cases

6-11-md-2299

JUDGE DOHERTY

MAGISTRATE JUDGE HANNA

CASE MANAGEMENT ORDER: MOTIONS

The submission to this Court of contested motions in the captioned proceedings shall be made in accordance with the following instructions.

I. SCOPE OF ORDER

This Order shall apply to all contested motions in the captioned proceedings. It shall not apply to unopposed motions, which the parties may continue to file as they have been doing. The stay on filing contested motions shall remain in place except for the categories of motions described herein.

II. MOTIONS

The parties will be permitted to file the following categories of contested motions within the following timeframes.

A. DISCOVERY

Discovery motions may be filed at any time prior to the discovery deadline in the action in which the motion is filed. *However, no discovery motion may be filed without prior consultation with the Special Masters; the Court strongly suggests genuine consideration of any guidance the Special Masters might offer be given by the parties before filing any such motion.* This Court has issued instructions to the Special Masters to assist the parties, to the

fullest extent possible, to resolve discovery disputes without the need for formal motions and briefing. Any motion filed without prior consultation with the Special Masters will be denied summarily.

B. CLASS ACTION ISSUES

Deadline: May 31, 2013

The parties may file motions by this deadline that are related to the class action allegations asserted in any case in these proceedings. However, should any party take the position that further discovery is required before a motion challenging class allegations or supporting class certification may be filed, the party shall provide notice of this fact to this Court, *via* the Special Masters. The Special Masters will assist the parties in addressing issues raised with the Court.

C. CHOICE OF LAW ISSUES

Deadline: June 28, 2013

The parties shall notify the Court, through the Special Masters, of their conclusion(s) as to the applicable law to each claim made against each defendant in each of the bellwether cases. In the event the parties disagree as to any conclusion as to a bellwether case(s), the Special Masters will consult with this Court and briefing deadlines will be set to allow an early determination to be made on any disputed choice of law question.

D. DISPOSITIVE MOTIONS, MOTIONS IN *LIMINE*¹

Deadline, 1st Pilot Bellwether Trial: October 14, 2013

¹ Please see this Court's Scheduling Order: Pilot Bellwether Program (First Trial) (Rec. Doc. 2359) and Scheduling Order: Pilot Bellwether Program (Second Trial) (Rec. Doc. 2520) for additional briefing deadlines associated with dispositive and *limine* motions.

All dispositive motions and *limine* motions associated with the *First Pilot Bellwether Trial* shall be filed no later than this deadline. Prior to this deadline, the Special Masters will solicit from counsel (confidentially, if preferred) lists of *limine* motions that the parties intend to file and will follow up with discussions with counsel as to the filing of those identified motions. The purpose of these consultations will be for the Special Masters to provide guidance to counsel with regard to the necessity of filing and response to *limine* motions.

Deadline, 2nd Pilot Bellwether Trial: January 13, 2014

All dispositive motions and *limine* motions associated with the *Second Pilot Bellwether Trial* shall be filed no later than this deadline. Prior to this deadline, the Special Masters will solicit from counsel (confidential, if preferred) lists of *limine* motions the parties intend to file and will follow up with discussions with counsel as to the filing of those identified motions. The purpose of these consultations will be for the Special Masters to provide guidance to counsel with regard to the necessity of filing and response to *limine* motions.

F. DAUBERT²

Deadline, 1st Pilot Bellwether Trial: October 21, 2013

All *Daubert* motions associated with the *First Pilot Bellwether Trial* shall be filed no later than this deadline.

Deadline, 2nd Pilot Bellwether Trial: January 20, 2014

All *Daubert* motions associated with the *Second Pilot Bellwether Trial* shall be filed no later than this deadline.

III. GUIDELINES

² Please see this Court's Scheduling Order: Pilot Bellwether Program (First Trial) (Rec. Doc. 2359) and Scheduling Order: Pilot Bellwether Program (Second Trial) (Rec. Doc. 2520) for additional briefing deadlines, as well as an evidentiary hearing, associated with *Daubert* motions.

A. Should any party wish to file a contested motion that is not discussed or described in this Order, counsel are strongly encouraged to contact the Special Masters for guidance as to how and when to bring the issue to the attention of the Court.

B. All motions must comply with this Court's standard rules, except to the extent waived or modified by orders issued in these proceedings. Counsel are encouraged to consult the local rules before filing any motion; they may be found on this Court's website, at <http://www.lawd.uscourts.gov/local-rules>. To the extent that counsel have any questions, they are strongly encouraged to contact any of the Special Masters in this matter, all of whom have extensive experience of, and familiarity with, the local rules.

C. Counsel are cautioned that this Court does not automatically grant leave to file reply briefs. Any party wishing to file a reply brief must first consult with the Special Masters and if necessary, thereafter, seek leave to file, making sure to attach a copy of the proposed brief to the motion for leave.³ Any motion for leave that has not been discussed with the Special Masters will be summarily denied for failure to comply with this Order. Any proposed motion for leave to file a reply brief and attached proposed reply brief that merely reiterate argument, instead of responding to unanticipated opposition argument, will not be permitted to be filed.

D. The Plaintiffs' Steering Committee will take the lead on facilitating briefing on behalf of all Plaintiffs, except where the PSC explicitly refuses to make arguments with regard to a motion or issue. Where non-PSC counsel intend to present separate argument on a given motion, Counsel are required to coordinate their efforts with the PSC to avoid unnecessary duplication.

³ See Local Rules for additional instructions concerning the filing of reply briefs.

E. All parties should be aware that, with regard to motions, this Court does not grant oral argument merely as a matter of course. Should oral argument be required on any given motion, counsel will be notified by the Court or the Special Masters, and oral argument will be scheduled by the Court.

SO ORDERED, this 21 day of May, 2013.



REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE